IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 652 OF 1999

Jamilahmed Ahmadsharif Shaikh ..Appellant

versus

1. A. Hamid Bhujurgsab Patwekar
2. Smt. Rahanabegum A. Shaikh
3. Parvejahmed A. Shaikh
4. Kum. Sabinabegum @ Munni A. Shaikh
5. United India Insurance Co. Ltd. Solapur ..Respondents

Mr. G. S. Godbole for the Appellant.

Mr. S. S. Shah for the Respondent No.1.

CORAM : D. G. DESHPANDE,J.

DATE : 7TH MARCH ,2005

ORAL ORDER :

1. This appeal was dismissed for default on 4.3.2005. Heard Counsel for the appellant. Looking to the facts of the case, the appeal is restored to file.

2. This appeal is filed by the original owner of the vehicle against the award of the Tribunal, Solapur, dated 18.1.1999 directing the appellant to

pay compensation of Rs.28,000/-. The insurance company was exonerated in this case on the ground that the appellant did not have a driving licence. Zerox copy of the driving licence was produced by the appellant but that was not accepted by the Tribunal. In the Appeal an application came to be filed by the appellant for permission to file the original driving licence, that was granted earlier. Accordingly, Mr. Godbole has produced the original driving licence of the appellant. It is for the period from 14.10.1993 to 24.10.2012. Original driving licence returned back to Mr. Godbole.

3. The accident in this case took place on 25.1.1994. It is therefore clear that when the accident took place the appellant had a valid driving licence. In view of this, the order of the Tribunal exonerating Insurance company is required to be set aside. Counsel for the respondent No.1 - claimant is present, he has no objection in allowing the appeal in this background. Hence, the order :

ORDER

. Appeal is allowed.

. Impugned Judgment is modified. The liability fastened on the appellant is quashed and

set aside. It will be the liability of the present Respondent No.5 Insurance Company to pay the amount of compensation with interest etc. and costs of this appeal to the claimants.

. The appellant has deposited the amount at the time of the appeal, the same has been withdrawn by the claimants. The appellant will be entitled to recover this amount from the insurance company in view of this order.

. Certified copy expedited.

7.03.2005 (D.G. DESHPANDE, J.)